

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

IN RE APPLICATION OF: OTSUKI *ET AL.*

APPLICATION NO.: 10/508,810

FILED: September 22, 2004

FOR: FUNCTIONAL PLANT, PROMOTER TO  
BE USED FOR PRODUCING THE  
FUNCTIONAL PLANT AND METHOD OF  
USING THE SAME

EXAMINER: Baggot, Brendan O.

ART UNIT: 1638

CONF. NO: 9688

**Information Disclosure Statement After First Office Action but Before  
Final Action or Notice of Allowance—37 CFR 1.97(c)**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

1. Timing of Submission

This information disclosure is being filed **after** three months of the filing date of this application or **after** the mailing date of the first office action on the merits, whichever occurred last, but **before** the mailing date of either a final action under 37 CFR 1.113 or a Notice of Allowance under 37 CFR 1.311, whichever occurs first. The references listed on the enclosed Form PTO-1449 may be material to the examination of this application; the Examiner is requested to make them of record in the application.

2. Cited Information

☒ Copies of references 1-2 are enclosed.

3. Effect of Information Disclosure Statement (37 C.F.R. § 1.97(h))

This Information Disclosure Statement is not to be construed as a representation that: (i) a search has been made; (ii) additional information material to the examination of this application does not exist; (iii) the information, protocols, results and the like reported by third parties are accurate or enabling; or (iv) the cited information is, or is considered to be, material to patentability. In addition, applicant does not admit that any enclosed item of information constitutes prior art to the subject invention and specifically reserves the right to demonstrate that any such reference is not prior art.

4. Fee Payment

- ☒ Applicant submits that no fee is due in light of the following certification under 37 C.F.R. § 1.97(e) (check only one):
- ☒ In accordance with 37 C.F.R. § 1.97(e)(1), the undersigned hereby states that each item of information submitted herewith was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this statement;
- ☒ However, should the Commissioner determine that fees are due in order for this Information Disclosure Statement to be considered, the Commissioner is hereby authorized to charge such fees to Deposit Account No. 50-2207.

5. Patent Term Adjustment (37 C.F.R. § 1.704(d))

- ☒ The undersigned states that each item of information submitted herewith was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in 37 C.F.R. § 1.56(c) more than thirty days prior to the filing of this statement. 37 C.F.R. § 1.704(d).

Respectfully submitted,  
Perkins Coie LLP

  
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Date: 15 Jan 2008

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